

AMENDED IN ASSEMBLY MARCH 22, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 64

Introduced by Assembly Member Berg

(Coauthors: Assembly Members Beall, De Leon, DeVore, Huffman, Horton, Jeffries, Jones, Krekorian, Niello, Portantino, Richardson, and Wolk)

December 4, 2006

An act to add Article 7.7 (commencing with Section 8599.5) to Chapter 7 of Division 1 of Title 2 of the Government Code, relating to volunteer emergency services.

LEGISLATIVE COUNSEL'S DIGEST

AB 64, as amended, Berg. Uniform Emergency Volunteer Health Practitioners Act.

Existing law establishes, in the Governor's office, the Office of Emergency Services, which, among other things, coordinates state emergency services in the event of a natural disaster. Existing law requires the Office of Emergency Services, in consultation with appropriate state and local governmental agencies and volunteer agencies, to develop a plan for state and local governmental agencies to utilize volunteer resources during a state of emergency proclaimed by the Governor. Existing law also, until March 1, 2007, ratifies, approves, and sets forth the provisions of the Emergency Management Assistance Compact. *the Emergency Medical Services Authority, in the Health and Welfare Agency, to establish planning and implementation guidelines for emergency medical service systems, as specified. The guidelines are required to address, among other things, disaster response, and the authority is required to provide technical assistance*

to existing agencies, counties, and cities for the purpose of developing the components of emergency medical services systems. The authority is required to adopt rules and regulations, approved by the Commission on Emergency Medical Services, in order to carry out its duties.

This bill would enact the Uniform Emergency Volunteer Health Practitioners Act, which would provide procedures to register volunteer health practitioners with valid and current licenses in other states. The bill would allow such a volunteer to practice, through a host entity, health or veterinary services as appropriate pursuant to his or her license for the duration of a state or local emergency, and would require a host entity in this state to consult and coordinate its activities with the ~~Office of Emergency Services~~ *Emergency Medical Services Authority* to the extent practicable. ~~The bill would allow the office to, pursuant to the Emergency Management Assistance Compact, incorporate into the emergency forces of this state or a local government in this state registered volunteer health practitioners who are not officials or employees of this state.~~

This bill would set forth certain scope of practice standards for a registered volunteer health practitioner during an emergency and would allow the ~~Office of Emergency Services~~ *Emergency Medical Services Authority* and applicable licensing boards to limit, restrict, or otherwise regulate specific aspects of practice. The bill would also permit a host entity to restrict the health or veterinary services that such a practitioner may provide. The bill would exempt a registered volunteer health practitioner from the unauthorized practice provisions for a health or veterinary service unless he or she has reason to know of an applicable limitation, modification, or restriction or that a similarly licensed practitioner in this state would not be permitted to provide that service. The bill would allow a health care licensing board to impose administrative sanctions upon a health practitioner licensed in this state for conduct outside of this state in response to an out-of-state emergency, and to impose administrative sanctions upon a practitioner not licensed in this state for conduct in this state in response to an in-state emergency, if certain conditions are met. *The bill would authorize the authority to promulgate rules, after approval by the Commission on Emergency Medical Services, in order to implement the provisions of the Uniform Emergency Volunteer Health Practitioners Act.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Article 7.7 (commencing with Section 8599.5) is added to Chapter 7 of Division 1 of Title 2 of the Government Code, to read:

Article 7.7. Uniform Emergency Volunteer Health Practitioners Act

8599.5. This article may be cited as the Uniform Emergency Volunteer Health Practitioners Act.

8599.51. For the purposes of this article, the following terms have the following meanings:

(a) “Disaster relief organization” means an entity that provides emergency or disaster relief services that include health or veterinary services provided by volunteer health practitioners and that meets either of the following requirements:

(1) It is designated or recognized as a provider of those services pursuant to a disaster response and recovery plan adopted by an agency of the federal government or the ~~Office of Emergency Services~~ *Emergency Medical Services Authority*.

(2) It regularly plans and conducts its activities in coordination with an agency of the federal government or the ~~Office of Emergency Services~~ *Emergency Medical Services Authority*.

(b) “Emergency” means an event or condition that is a state of emergency proclaimed pursuant to Section ~~8625 or 8588 or 8625~~, a local emergency proclaimed pursuant to Section 8630, *a health emergency proclaimed pursuant to Section 101080 of the Health and Safety Code, or a state of war*.

(c) “Emergency declaration” means a proclamation of emergency issued pursuant to Section ~~8625 or 8630~~ 8588, 8625, *or 8630, a declaration of health emergency pursuant to Section 101080 of the Health and Safety Code, or a declaration of war by the President of the United States*.

(d) “Emergency Management Assistance Compact” means the interstate compact approved by Congress by Public Law No. 104-321 and ratified in Article 3.7 (commencing with Section 179) of Chapter 1 of Division 1 of Title 1.

(e) “Entity” means a person other than an individual.

1 (f) “Health facility” means an entity licensed under the laws of
2 this or another state to provide health or veterinary services.

3 (g) “Health practitioner” means an individual licensed under
4 the laws of this or another state to provide health or veterinary
5 services.

6 (h) “Health services” means the provision of treatment, care,
7 advice, or guidance, or other services, or supplies, related to the
8 health or death of individuals or human populations, to the extent
9 necessary to respond to an emergency, including all of the
10 following:

11 (1) Services or supplies concerning the physical or mental
12 condition or functional status of an individual or affecting the
13 structure or function of the body, including the following:

14 (A) Preventive, diagnostic, therapeutic, rehabilitative,
15 maintenance, or palliative care.

16 (B) Counseling, assessment, procedures, or other services.

17 (2) The sale or dispensing of a drug, a device, equipment, or
18 another item to an individual in accordance with a prescription.

19 (3) Funeral, cremation, cemetery, or other mortuary services.

20 (i) “Host entity” means an entity operating in this state that uses
21 volunteer health practitioners to respond to an emergency.

22 (j) “License” means authorization by a state to engage in health
23 or veterinary services that are unlawful without the authorization.
24 *The term includes authorization under the laws of California to*
25 *provide health or veterinary services based upon a national*
26 *certification issued by a public or private entity.*

27 (k) “Person” means an individual, corporation, business trust,
28 trust, partnership, limited liability company, association, joint
29 venture, public corporation, government or governmental
30 subdivision, agency, or instrumentality, or any other legal or
31 commercial entity.

32 (l) “Scope of practice” means the extent of the authorization to
33 provide health or veterinary services granted to a health practitioner
34 by a license issued to the practitioner in the state in which the
35 principal part of the practitioner’s services are rendered, including
36 any conditions imposed by the licensing authority in that state.

37 (m) “State” means a state of the United States, the District of
38 Columbia, Puerto Rico, the United States Virgin Islands, or any
39 territory or insular possession subject to the jurisdiction of the
40 United States.

1 (n) “Veterinary services” means the provision of treatment,
2 care, advice or guidance, or other services or supplies, related to
3 the health or death of an animal or to animal populations, to the
4 extent necessary to respond to an emergency, including all of the
5 following:

6 (1) Diagnosis, treatment, or prevention of an animal disease,
7 injury, or other physical or mental condition by the prescription,
8 administration, or dispensing of vaccine, medicine, surgery, or
9 therapy.

10 (2) Use of a procedure for reproductive management.

11 (3) Monitoring and treatment of animal populations for diseases
12 that have spread or demonstrate the potential to spread to humans.

13 (o) “Volunteer health practitioner” means a health practitioner
14 who provides health or veterinary services, whether or not the
15 practitioner receives compensation for those services. “Volunteer
16 health practitioner” does not include a practitioner who receives
17 compensation pursuant to a preexisting employment relationship
18 with a host entity or affiliate that requires the practitioner to provide
19 health services in this state, unless the practitioner is not a resident
20 of this state and is employed by a disaster relief organization
21 providing services in this state while an emergency declaration is
22 in effect.

23 8599.52. This article applies to volunteer health practitioners
24 registered with a registration system that complies with Section
25 8599.54 and who provide health or veterinary services in this state
26 for a host entity while an emergency declaration is in effect.

27 8599.53. (a) While an emergency declaration is in effect, the
28 ~~Office of Emergency Services~~ *Emergency Medical Services*
29 *Authority* may limit, restrict, or otherwise regulate all of the
30 following:

31 (1) The duration of practice by volunteer health practitioners.

32 (2) The geographical areas in which volunteer health
33 practitioners may practice.

34 (3) The types of volunteer health practitioners who may practice.

35 (4) Any other matters necessary to coordinate effectively the
36 provision of health or veterinary services during the emergency.

37 (b) An order issued pursuant to subdivision (a) may take effect
38 immediately, without prior notice or comment, and is not a
39 regulation within the meaning of the Administrative Procedure

1 Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of
2 Division 3).

3 (c) A host entity that uses volunteer health practitioners to
4 provide health or veterinary services in this state shall do both of
5 the following:

6 (1) Consult and coordinate its activities with the ~~Office of~~
7 ~~Emergency Services~~ *Emergency Medical Services Authority* to the
8 extent practicable to provide for the efficient and effective use of
9 volunteer health practitioners.

10 (2) Comply with any laws other than this article relating to the
11 management of emergency health or veterinary services.

12 8599.54. (a) To qualify as a volunteer health practitioner
13 registration system, a system must do all of the following:

14 (1) Accept applications for the registration of volunteer health
15 practitioners before or during an emergency.

16 (2) Include information about the licensure and good standing
17 of health practitioners that is accessible by authorized persons.

18 (3) Be capable of confirming the accuracy of information
19 concerning whether a health practitioner is licensed and in good
20 standing before health services or veterinary services are provided
21 under this article.

22 (4) Meet at least one of the following conditions:

23 (A) Be an emergency system for advance registration of
24 volunteer health care practitioners established by a state and funded
25 through the Health Resources Services Administration under
26 Section 319I of the Public Health Services Act (42 U.S.C. Sec.
27 247d-7b).

28 (B) Be a local unit consisting of trained and equipped emergency
29 response, public health, and medical personnel formed pursuant
30 to Section 2801 of the Public Health Services Act (42 U.S.C. Sec.
31 300hh).

32 (C) Be operated by one of the following:

33 (i) A disaster relief organization.

34 (ii) A licensing board or bureau established pursuant to Division
35 2 (commencing with Section 500) of, or Chapter 12 (commencing
36 with Section 7600) of Division 3 of, the Business and Professions
37 Code.

38 (iii) A national or regional association of licensing boards or
39 health practitioners.

1 (iv) A health facility that provides comprehensive inpatient and
2 outpatient health care services, including a tertiary care and
3 teaching hospital.

4 (v) A governmental entity.

5 (D) Be designated by the ~~Office of Emergency Services~~
6 *Emergency Medical Services Authority* as a registration system
7 for purposes of this article.

8 (b) While an emergency declaration is in effect, the ~~Office of~~
9 ~~Emergency Services~~ *Emergency Medical Services Authority*, a
10 person authorized to act on behalf of the ~~office~~ *authority*, or a host
11 entity may confirm whether volunteer health practitioners utilized
12 in this state are registered with a registration system that complies
13 with subdivision (a). Confirmation is limited to obtaining identities
14 of the practitioners from the system and determining whether the
15 system indicates that the practitioners are licensed and in good
16 standing.

17 (c) Upon request of a person in this state authorized to manage
18 the emergency response, or a similarly authorized person in another
19 state, a registration system located in this state shall notify the
20 person of the identities of volunteer health practitioners and
21 whether the practitioners are licensed and in good standing.

22 (d) A host entity is not required to use the services of a volunteer
23 health practitioner even if the practitioner is registered with a
24 registration system that indicates that the practitioner is licensed
25 and in good standing.

26 8599.55. (a) While an emergency declaration is in effect, a
27 volunteer health practitioner, registered with a registration system
28 that complies with Section 8599.54 and licensed and in good
29 standing in the state in which the practitioner's registration is based,
30 may practice in this state to the extent authorized by this article as
31 if the practitioner were licensed in this state.

32 (b) A volunteer health practitioner qualified under subdivision
33 (a) is not entitled to the protections of this article if the practitioner
34 is licensed in more than one state and any license of the practitioner
35 is suspended, revoked, or subject to an order limiting or restricting
36 practice privileges, or has been voluntarily terminated under threat
37 of sanction.

38 8599.56. (a) For purposes of this section, the following terms
39 have the following meanings:

1 (1) “Credentialing” means obtaining, verifying, and assessing
2 the qualifications of a health practitioner to provide treatment,
3 care, or services in or for a health facility.

4 (2) “Privileging” means the authorizing by an appropriate
5 authority, such as a governing body, of a health practitioner to
6 provide specific treatment, care, or services at a health facility
7 subject to limits based on factors that include license, education,
8 training, experience, competence, health status, and specialized
9 skill.

10 (b) This article does not affect credentialing or privileging
11 standards of a health facility and does not preclude a health facility
12 from waiving or modifying those standards while an emergency
13 declaration is in effect.

14 8599.57. (a) Subject to subdivisions (b) and (c), a volunteer
15 health practitioner shall adhere to the scope of practice for a
16 similarly licensed practitioner established by the licensing
17 provisions, practice acts, or other laws of this state.

18 (b) Except as otherwise provided in subdivision (c), this article
19 does not authorize a volunteer health practitioner to provide
20 services that are outside the practitioner’s scope of practice, even
21 if a similarly licensed practitioner in this state would be permitted
22 to provide the services.

23 (c) The applicable licensing board or bureau may modify or
24 restrict the health services or veterinary services regulated by that
25 body that volunteer health practitioners may provide pursuant to
26 this article. An order under this subdivision may take effect
27 immediately, without prior notice or comment, and is not a
28 regulation within the meaning of the Administrative Procedure
29 Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of
30 Division 3).

31 (d) A host entity may restrict the health or veterinary services
32 that a volunteer health practitioner may provide pursuant to this
33 article.

34 (e) A volunteer health practitioner shall not be found to have
35 engaged in unauthorized practice unless the practitioner has reason
36 to know of any limitation, modification, or restriction under this
37 section or that a similarly licensed practitioner in this state would
38 not be permitted to provide the services. A volunteer health
39 practitioner has reason to know of a limitation, modification, or

1 restriction or that a similarly licensed practitioner in this state
2 would not be permitted to provide a service if either:

3 (1) The practitioner knows the limitation, modification, or
4 restriction exists or that a similarly licensed practitioner in this
5 state would not be permitted to provide the service.

6 (2) From all the facts and circumstances known to the
7 practitioner at the relevant time, a reasonable person would
8 conclude that the limitation, modification, or restriction exists or
9 that a similarly licensed practitioner in this state would not be
10 permitted to provide the service.

11 (f) In addition to the authority granted by the laws of this state,
12 other than this article, to regulate the conduct of health
13 practitioners, a licensing board or other disciplinary authority in
14 this state has the following powers and duties:

15 (1) It may impose administrative sanctions upon a health
16 practitioner licensed in this state for conduct outside of this state
17 in response to an out-of-state emergency.

18 (2) It may impose administrative sanctions upon a practitioner
19 not licensed in this state for conduct in this state in response to an
20 in-state emergency.

21 (3) It shall report any administrative sanctions imposed upon a
22 practitioner licensed in another state to the appropriate licensing
23 board or other disciplinary authority in any other state in which
24 the practitioner is known to be licensed.

25 (g) In determining whether to impose administrative sanctions
26 under subdivision (f), a licensing board or other disciplinary
27 authority shall consider the circumstances in which the conduct
28 took place, including any exigent circumstances, and the
29 practitioner's scope of practice, education, training, experience,
30 and specialized skill.

31 ~~8599.57. (a)~~

32 ~~8599.58. This article does not limit rights, privileges, or~~
33 ~~immunities provided to volunteer health practitioners by laws other~~
34 ~~than this article. Except as otherwise provided in subdivision (b),~~
35 ~~this article does not affect requirements for the use of health~~
36 ~~practitioners pursuant to the Emergency Management Assistance~~
37 ~~Compact.~~

38 ~~(b) The Office of Emergency Services, pursuant to the~~
39 ~~Emergency Management Assistance Compact, may incorporate~~
40 ~~into the emergency forces of this state volunteer health practitioners~~

1 ~~who are not officers or employees of this state, a political~~
2 ~~subdivision of this state, or a municipality or other local~~
3 ~~government within this state. *than this article.*~~

4 8599.6. ~~The Office of Emergency Services~~ *Emergency Medical*
5 *Services Authority* may promulgate rules, *after approval by the*
6 *Commission on Emergency Medical Services*, to implement this
7 article. In doing so, ~~the office~~ *authority* shall consult with and
8 consider the recommendations of the entity established to
9 coordinate the implementation of the Emergency Management
10 Assistance Compact and shall also consult with and consider rules
11 promulgated by similarly empowered agencies in other states to
12 promote uniformity of application of this article and make the
13 emergency response systems in the various states reasonably
14 compatible

15 8599.61. In applying and construing this article, consideration
16 shall be given to the need to promote uniformity of the law with
17 respect to its subject matter among states that enact it.